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ABSTRACT

School districts in Texas have used the same grievance procedure for approximately 20 years. In response to general dissatisfaction throughout the Socorro Independent School District (SISD) in El Paso, Texas, the district developed a new, user-friendly grievance procedure. This paper describes the use of peer mediation and arbitration to resolve conflicts among employees, students, and parents in the Socorro Independent School District. The new policy covers grievances between employees, between students/parents and teachers, and between students/parents and SISD employees. The paper describes the former grievance procedure, discusses the genesis of the new conflict-resolution policy and its components, and highlights outcomes of the new policy. Within the 10-month period after initiation of the new policy, 6 of the 15 complaints filed by district employees were resolved at the initial meeting of the 2 parties. One parent-versus-employee complaint was resolved through mediation by the arbitrator, and there were no student/parent grade or grade-level challenges. The policy is said to be successful because it is user friendly and utilizes district employees to resolve conflicts. (LMI)

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ED 411 584

THE USE OF PEER MEDIATION AND ARBITRATION TO RESOLVE CONFLICTS AMONG DISTRICT EMPLOYEES, STUDENTS, AND PARENTS

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EA 028618

THE USE OF PEER MEDIATION AND ARBITRATION TO RESOLVE CONFLICTS AMONG DISTRICT EMPLOYEES, STUDENTS, AND PARENTS

This session will discuss the use of peer mediation and arbitration to resolve conflicts among employees, students, and parents in the Socorro Independent School District located in El Paso, Texas. Socorro ISD is a rapidly growing urban school district which offers a comprehensive multi-track year-round education program. The district has 21,200 students, 3,600 employees and 23 school campuses and is growing by 1,500 to 2,000 students per year.

Before we begin let me introduce the presenters. My name is Gary Brooks. I am a member of the doctoral faculty in educational leadership and foundations at the University of Texas at El Paso and serve as the arbitrator for Socorro ISD. My co-presenter is Tom Marcee who is Assistant Superintendent for Human Resources at Socorro ISD.

Our presentation will cover several topics:

[T-1]

TOPIC OUTLINE

- review of old grievance procedure
- genesis of new grievance procedure
- description of new conflict resolution process
- disposition of complaints/grievances filed under new policy

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First, we will briefly describe the old grievance procedure. Next, we will discuss the genesis of the new conflict resolution procedure and how it was developed. This will be followed by a description of the components of the conflict resolution process. Last, we will discuss our experience with the new policy.

School districts in Texas have used the same grievance procedure for approximately 20 years. The next transparency shows an outline of this procedure.

[T-2]

GRIEVANCE PROCEDURE RECOMMENDED BY TASB*

- level one oral
- level one written
- level two
- level three
- hearing

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* Texas Association of School Boards

The initial stage of the process, Level One Oral, required the Grievant to present the grievance to the principal or immediate supervisor within a specified period of time. The parties then attempted to resolve the matter. If the Grievant was not satisfied with the results of Level One Oral he/she could file a written grievance. The principal or immediate supervisor rendered a written decision with a brief rationale to the Grievant. If the outcome of the complaint conference at Level One Written was not to the employee's satisfaction, the employee met with the superintendent or his designee. A written decision was rendered after the Level Two employee conference. If the outcome at Level Two was not satisfactory to the employee he/she could request a formal hearing or present the complaint to the board of trustees during open forum at the next regular board meeting. This process constituted Level Three. Employees who were granted a hearing were afforded a hearing with the board of trustees or the board's designee.

My experience with this grievance procedure was mostly negative. The process was cumbersome and was burdensome to site-based administrators, supervisors and human resource staff. Also, the process unnecessarily involved the board of trustees. Most importantly, the process did not assure the prompt resolution of employee grievances.

Because of the general dissatisfaction throughout the district with this grievance procedure, the superintendent of Socorro ISD asked me to begin the process of designing a more user-friendly policy. I contacted Dr. Brooks and asked him if he would be interested in developing a draft of a new grievance procedure. The conflict resolution process which we will describe in a few minutes was designed without consulting any model. It, therefore, is an original design based on the use of peer mediation and arbitration.

Once the original draft was prepared, input was solicited from human resource department staff, site-based administrators, teachers, paraprofessionals and teacher organization officers. Although the suggested modifications to the original draft were relatively minor in nature, each improved the policy.

After the board of trustees adopted the new complaint and grievance procedure Dr. Brooks, who was appointed district arbitrator, and I visited each campus and job site to introduce the new policy to district employees. Forty-three presentations were made over a 1 1/2 month period.

The complaint and grievance procedure utilized by Socorro ISD will now be described.

[T-3]

SOCORRO ISD
COMPLAINT/GRIEVANCE PROCEDURE

Complaints/Grievances Covered by Policy

- employee v. employee
- student/parent v. teacher (grade/grade-level challenges)
- student/parent v. SISD employee

Complaints/Grievances Not Covered By Policy

- sexual harassment complaints under Title IX
- complaints filed under §504 of the Rehabilitation Act of 1973
- "whistle-blower" complaints
- student v. student complaints

As you can see from this transparency the complaint and grievance procedure which was designed has 3 components:

(1) employee v. employee complaints,
(2) student or parent grade challenges or grade - level challenges, and
(3) student or parent complaints against district employees.

There are 4 types of complaints or grievances which are not covered by this policy. Sexual harassment, §504 and "whistle blower" complaints are addressed by staff of the human resources department. Conflicts between students continue to be the province of site-based administrators.

[T-4]

COMPLAINT/GRIEVANCE PROCEDURE

DEFINITIONS:

Complaint: A concern regarding one or more of the following:

- wages, hours, or conditions of work
- alleged violations of Board policy or administrative regulation(s)
- alleged violation of employee's exercise of constitutional rights
- alleged arbitrary, malicious, or capricious treatment
- alleged unlawful discrimination in employment on the basis of sex (excluding sexual harassment), race, religion, national origin, or handicap
- alleged harassment
- alleged violation of the Code of Ethics and Standard Practices for Professional Educators

The complaint must establish the individual harm suffered.

Grievance: An unresolved complaint

Teacher: Classroom teachers, counselors, librarians, and nurses

Staff: District employees other than teachers, site-based administrators, and supervisors

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You will note that a distinction is made between a "complaint" and a "grievance". A complaint is a concern regarding a variety of job-related issues, whereas, a grievance is an unresolved complaint.

[T-5]

COMPLAINT/GRIEVANCE PROCEDURE

ELECTION OF MEDIATORS

A cadre of mediators were selected as follows:

5 staff members elected by the staff (1 each from food service, transportation, security, maintenance, and paraprofessionals)

10 teachers elected by the faculty as follows:
- 2 high school teachers
- 2 middle school teachers
- 2 elementary school teachers
- 2 teachers from the teacher academies
- 2 special education teachers

4 site-based administrators appointed by the assistant superintendent for instruction

2 human resource specialists appointed by the assistant superintendent for human resources

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As noted earlier, this complaint and grievance procedure utilizes peer mediation and arbitration. After the new policy was introduced to district employees a cadre of 21 mediators were selected. Fifteen of the 21 mediators were elected by their peers after a self-nomination process. The other 6 mediators were appointed by the assistant superintendents for instruction and human resources. The mediators participated in a training program before the new policy was initiated.

Next, we will examine the 3 components of the policy.

[T-6]

COMPLAINT/GRIEVANCE PROCEDURE

EMPLOYEE V. EMPLOYEE COMPLAINTS/GRIEVANCES

Complaints

Procedure	Timeline
• Complainant files written complaint with Arbitrator	• within 10 work days of incident
• Arbitrator sends copy of complaint to Respondent	• within 2 work days
• Arbitrator schedules meeting between Complainant and Respondent	• meeting set within 5 work days after copy of complaint received by Respondent

If a district employee has a complaint against a fellow employee he or she must file the complaint within 10 work days. In my capacity as district arbitrator, I immediately send a copy of the complaint to the Respondent and schedule a meeting between the parties. District employees, of course, have the right to representation throughout the process.

If the Complainant is not satisfied with the results of the initial meeting he/she can file a grievance. Remember a grievance is an unresolved complaint.

[T-7]

COMPLAINT/GRIEVANCE PROCEDURE

EMPLOYEE V. EMPLOYEE COMPLAINTS/GRIEVANCES

Grievances: Mediation

Procedure	Timeline
• If complaint is unresolved, Complainant may file a written grievance with Arbitrator	• within 5 work days of unsuccessful meeting with Respondent
• Arbitrator sends copy of grievance to Respondent	• within 2 work days
• Respondent has opportunity (but no obligation) to respond in writing to grievance	• response (if any) sent to Arbitrator and Grievant within 5 work days
• Arbitrator appoints Mediator and sends copy of grievance and response (if any) to Mediator	• within 2 work days after deadline for response
• Mediator meets with Grievant and Respondent and attempts to resolve the matter	• meeting(s) set within 5 work days
• Mediator submits report to Arbitrator, Grievant, and Respondent	• within 2 work days after meeting(s)

As soon as I receive the grievance I send a copy to the Respondent who has an opportunity, but no obligation, to respond. After the deadline for a response I appoint a mediator to the case. In this system mediators are facilitators, not decision-makers. If mediation fails and the Grievant wants to pursue the case an arbitration hearing is held.

[T-8]

COMPLAINT/GRIEVANCE PROCEDURE

EMPLOYEE V. EMPLOYEE COMPLAINTS/GRIEVANCES

Grievances: Arbitration

Procedure	Timeline
• If mediation effort fails, Grievant may submit a written request for a hearing before the Arbitrator	• within 5 work days of unsatisfactory mediation effort
• Arbitrator schedules an administrative hearing	• hearing set within 5 work days of request
• Arbitrator notifies Grievant and Respondent of ruling and submits report to Superintendent, Grievant, and Respondent	• within 5 work days of hearing
• Any further action is at the discretion of the Superintendent	

This transparency describes the arbitration process. Once the administrative hearing is held I render a written ruling. Any further action is at the discretion of the superintendent.

The second component of the complaint/grievance procedure is student or parent grade or grade-level challenges.

[T-9]

COMPLAINT/GRIEVANCE PROCEDURE

STUDENT/PARENT GRADE CHALLENGES

Procedure	Timeline
• Student/parent submits written grade challenge (based on arbitrariness, malice, caprice or impermissible discrimination) to Arbitrator	• within 10 work days of grade report
• Arbitrator sends grade challenge to teacher	• within 2 work days
• Teacher has opportunity (but no obligation) to respond. Arbitrator sends copy of response (if any) to student/parent	• response (if any) sent to Arbitrator within 5 work days
• Arbitrator meets with student/parent and rules on grade challenge	• meeting set within 5 work days after deadline for response
• Arbitrator sends copy of ruling to student/parent, teacher, and principal	• within 5 work days after meeting with Principal and teacher

The bases for filing a grade challenge are arbitrariness, malice, caprice, or impermissible discrimination. Grade challenges may not be based on the perceived difficulty level of the course, teaching style or the nature or number of assignments or tests administered by the teacher. These are matters of academic freedom.

When a grade challenge is filed I immediately send a copy to the teacher who has an opportunity, but no obligation, to respond. After the response

deadline I meet with the student and/or parent and the teacher, consider the challenge, and issue a ruling. The burden of proof to support the grade challenge rests with the Complainant. A similar procedure is used with grade-level challenges.

The third component of the complaint and grievance procedure is student or parent complaints against district employees.

[T-10]

COMPLAINT/GRIEVANCE PROCEDURE

STUDENT/PARENT COMPLAINTS AGAINST SISD EMPLOYEES

Procedure	Timeline
• Student/parent submits written complaint to Arbitrator	• within 10 work days of incident
• Arbitrator sends complaint to employee	• within 2 work days
• Employee has opportunity (but no obligation) to respond. Arbitrator sends copy of response (if any) to student/parent	• response (if any) sent to Arbitrator within 5 work days
• Arbitrator meets with student/ parent and employee, and attempts to mediate the conflict. If mediation fails, Arbitrator rules on complaint	• meeting set within 5 work days after deadline for response
• Arbitrator sends copy of ruling (if any) to student/parent, employee, Principal, and Superintendent	• within 5 work days after meeting with student/ parent and employee
• Any further action is at the discretion of the Superintendent	

When a student or parent files a complaint against a district employee I immediately send a copy of the complaint to the employee who has an opportunity, but no obligation to respond. Next, I meet with the parties and attempt to mediate the conflict. If mediation fails I issue a ruling. Any further action is at the discretion of the Superintendent.

Before Mr. Marcee reports on the disposition of cases filed under the policy let me briefly comment on my relationship to the school district. I am an independent arbitrator. Although I receive a consultant fee based on 10 hours work per week, I have no obligation to the district other than to coordinate the complaint and grievance process in a fair and equitable manner. No one in the district has ever instructed or asked me to issue a specific ruling.

The other function I perform is to review staff terminations which have been appealed. This is done at the request of the superintendent. Once again I serve as an independent hearing officer.

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DISPOSITION OF COMPLAINTS/GRIEVANCES FILED UNDER BOARD POLICY DGBA

15 employee v. employee complaints/grievances

- 6 complaints resolved at the initial meeting of the 2 parties
- 3 grievances resolved through mediation
- 1 complaint withdrawn
- 2 complaints dismissed
- 2 grievances decided by Arbitrator
- 1 complaint pending

1 parent v. SISD employee complaint resolved through mediation by Arbitrator

0 student/parent grade/grade-level challenges

As you can see Socorro ISD does not have many grievances. This transparency covers the 10-month period since the policy was initiated. You will note that 6 of the 15 complaints filed by district employees were resolved at the initial meeting of the 2 parties. Three grievances have been resolved through mediation and only 2 grievances have gone to arbitration.

Members of the various constituent groups of the district including employee organization officers appear to be very pleased with the policy. No complaints have been registered about the policy. The key to the success of this complaint and grievance procedure is that it is user-friendly and utilizes district employees to resolve conflicts.

We would be happy to respond to any questions.